

EXHIBIT 3

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

DAN AND JEAN MCCARTY, et al.,)
Plaintiffs,)
v.)
THE UNITED STATES OF AMERICA,)
Defendant.)
)

)) Hon. Mary Ellen Coster Williams
)

)) No. 1:14-cv-00316 MCW
)

**DECLARATION OF ELIZABETH MUNNO IN SUPPORT OF LANDOWNERS'
ATTORNEYS' FEES APPLICATION**

I, Elizabeth Munno, being of lawful age, state the following to be true and accurate to the best of my knowledge and understanding based upon my personal knowledge and belief:

1. I am the Chief Financial Officer at Arent Fox LLP (Arent Fox). Arent Fox was established in Washington, D.C. in 1942. The Washington, D.C. office has approximately 190 attorneys, 55 paralegals and other timekeepers, and 210 staff members. Arent Fox also has offices in New York, Los Angeles, San Francisco, and St. Louis. As part of maintaining its offices in each of these locales, Arent Fox employs paralegals, other support specialists and administrative staff such as librarians, conflict analysts, billing analysts, accounting personnel, human resources, technology, marketing, records specialists, and secretaries. Although work performed for clients by paralegals and other support specialists mostly gets billed to clients, the work performed by these other administrative staff members is part of the overhead of operating the firm and is not billed to clients.

2. Among my other responsibilities, I assist in the establishment of billing rates for each of the attorneys and other timekeepers in all Arent Fox offices. Arent Fox adjusts its rates on January 1 of each year. These rates must take into account many factors. Most importantly, Arent Fox's rates must be consistent with its competition in the marketplace. I review various

surveys and other publicly available information about law firms of comparative size that offer comparative services to Arent Fox.

3. Because Arent Fox offers services in several different legal markets, its usual and customary rates must reflect the market in which each attorney participates. As such, the firm attempts to offer rates that are consistent with market conditions in those locations where Arent Fox has offices. Accordingly, the rates for each Arent Fox attorney are not “one size fits all.” They differ, for example, by geographic location. Because the St. Louis office is smaller and requires less overhead to maintain than Arent Fox’s other offices, Arent Fox offers its associates in that office at a lower rate than its associates in larger offices. Nevertheless, those associates draw on the firm’s fixed resources, which must be reflected in their rate. The result is a rate approximately 15% lower for an associate in St. Louis compared to a similarly experienced associate in Los Angeles, New York or Washington, D.C.

4. Similarly, the rates at which each attorney’s services are offered by the firm generally reflect the firm’s judgment regarding that attorney’s skill, experience, and specialized knowledge regarding any particular matter. For instance, Thor Hearne’s hourly rate reflects his years of experience in complex federal litigation including both trial and appellate practice.

5. The hourly rates Arent Fox charges for its work on this litigation are the usual and customary rates determined by the firm as part of its usual rate-setting practice for comparable complex federal litigation. These are hourly rates charged to and paid by private clients in comparable litigation.

6. Arent Fox follows the customary practice in the legal market place of private client billing, which is for a private client to pay their legal fee within thirty-days after the work is performed. Arent Fox and other law firms establish their hourly rates with this expectation.

7. Arent Fox's current charges through August 2016 are \$1,395,134 for 2,805 hours of work by attorneys and paralegals. Through August 31, 2016 Arent Fox has paid \$218,885 in out-of-pocket costs in this litigation.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and accurate.

Executed on September 29, 2016



ELIZABETH MUNNO